



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5652

by Rep. Keith P. Sommer

SYNOPSIS AS INTRODUCED:

New Act

Creates the Agritourism and Farm Animal Activity Liability Act. Makes legislative findings including that the use and exhibition of farm animals significantly contributes to the Illinois economy and these activities have inherent risks. Provides definitions for terms that include agritourism activity, agritourism and farm animal professional, and inherent risks of farm animal and agritourism activity. Provides that an agritourism and farm animal activity professional is not liable for injury to or death of a participant in an activity if the professional provided a specified written warning, did not engage in willful and wanton disregard for the participant's safety, and did not fail to warn of a known danger. Provides written warning requirements that are to be posted and included in written contracts. Provides that the failure to comply with the warning requirements prevents a professional from invoking the liability limits of the Act. Effective immediately.

LRB095 15441 AJO 41433 b

1 AN ACT concerning agricultural activity liability.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Agritourism and Farm Animal Activity Liability Act.

6 Section 5. Legislative findings. The General Assembly
7 finds that activities involving the use and exhibition of farm
8 animals including but not limited to agritourism activities are
9 engaged in by a large number of citizens of Illinois,
10 significantly contributing to the economy of Illinois. Since it
11 is recognized that there are inherent risks in working with,
12 exhibiting, and using farm animals which should be understood
13 by participants in farm animal activities and agritourism and
14 which are essentially impossible for owners of farm animals or
15 sponsors of farm animal activities and agritourism professions
16 to eliminate, it is the purpose of this statute is to define
17 the areas of responsibility and affirmative acts for which
18 activity sponsors, professionals, and participants shall be
19 responsible, to specify risks of injury for which activity
20 sponsors, professionals, and participants shall not be
21 responsible, and to specify areas of responsibilities of farm
22 animal participants. Therefore, the General Assembly
23 determines that to preserve and promote activities involving

1 farm animals and agritourism and the health and safety of the
2 citizens of Illinois, these statutory provisions are necessary
3 to instruct persons voluntarily engaging in farm animal
4 activities and agritourism of the potential risks inherent in
5 the activities.

6 Section 10. Definitions. In this Act:

7 (a) "Agritourism activity" means any activity carried out
8 on a farm that allows individuals, for recreational,
9 entertainment, or educational purposes, to view or participate
10 in production agriculture as defined by Section 3-35 of the Use
11 Tax Act or hunting, fishing, or trapping. An activity is an
12 agritourism activity whether or not the participant paid to
13 participate in the activity.

14 (b) "Agritourism and farm animal activity professional"
15 means any person who is engaged in the business of providing
16 one or more agritourism or farm animal activities, whether or
17 not for compensation.

18 (c) "Farm animal activity" means any activity that allows
19 individuals to participate in any manner in the leading,
20 showing, exhibiting, riding, providing or assisting in
21 providing medical treatment of, grooming, fixing or attending
22 to farm animal equipment, driving, or being a passenger upon a
23 farm animal, or a spectator at any of these activities. Any
24 such activity is a farm animal activity whether carried out on
25 or off-site of the agritourism and farm animal professional's

1 business, such as at a clinic, parade, fair, exhibition, or
2 other location of this sort, however informal or impromptu,
3 that is sponsored by an agritourism and farm animal activity
4 professional.

5 (d) "Farm animal" means an animal in one of the following
6 categories: cattle, oxen, sheep, swine, goats, horses, ponies,
7 mules, donkeys, hinnies, alpacas, llamas, ratites, (ostrich,
8 rhea, emu), and poultry.

9 (e) "Inherent risks of farm animal and agritourism
10 activity" means those dangers or conditions that are an
11 integral part of an agritourism or farm animal activity
12 including certain hazards, including surface and subsurface
13 conditions, natural conditions of land, vegetation, and
14 waters, the unpredictable behavior of wild or domestic animals,
15 and the dangers of structures or equipment ordinarily used in
16 farming operations. Inherent risks of agritourism and farm
17 animal activity also include the potential of a participant to
18 act in a negligent manner that may contribute to injury to the
19 participant or others, including failing to follow
20 instructions given by the agritourism professional or failing
21 to exercise reasonable caution while engaging in the
22 agritourism activity.

23 (f) "Participant" means any person, other than the
24 agritourism and farm animal professional, who engages in an
25 agritourism or farm animal activity.

26 (g) "Person" means an individual, fiduciary, firm,

1 association, partnership, limited liability company,
2 corporation, unit of government, or any other group acting as a
3 unit.

4 Section 15. Liability.

5 (a) Except as provided in subsection (b) of this Section,
6 an agritourism and farm animal activity professional is not
7 liable for injury to or death of a participant resulting from
8 the inherent risks of farm animal and agritourism activity, so
9 long as the warning contained in Section 20 is posted as
10 required and, except as provided in subsection (b) of this
11 Section, no participant or participant's representative can
12 maintain an action against or recover from an agritourism or
13 farm animal activity professional for injury, loss, damage, or
14 death of the participant resulting from any of the inherent
15 risks of agritourism or farm animal activities.

16 (b) Nothing in subsection (a) of this Section prevents or
17 limits the liability of an agritourism and farm animal activity
18 professional if the agritourism and farm animal activity
19 professional does any one or more of the following:

20 (1) Commits an act or omission that constitutes willful
21 or wanton disregard for the safety of the participant, and
22 that act or omission proximately causes injury, damage, or
23 death to the participant.

24 (2) Has actual knowledge or reasonably should have
25 known of a dangerous condition on the land, facilities, or

1 equipment used in the activity and does not make the danger
2 known to the participant, and the danger proximately causes
3 injury, damage, or death to the participant.

4 (c) Any limitation on legal liability afforded by this
5 Section to an agritourism and farm animal activity professional
6 is in addition to any other limitations of legal liability
7 otherwise provided by law.

8 (d) Liability may be limited under the terms of this Act
9 regardless of whether the agritourism or farm animal activity
10 is open to the public.

11 Section 20. Warning required.

12 (a) Every agritourism professional must post and maintain
13 signs that contain the warning notice specified in subsection
14 (b) of this Section. The sign must be placed in a clearly
15 visible location at the entrance to the agritourism and farm
16 animal activity location and at the site of the agritourism
17 activity or farm animal activity. The warning notice must
18 consist of a sign in black letters, with each letter to be a
19 minimum of one inch in height.

20 Every written contract entered into by an agritourism and
21 farm animal professional for the providing of professional
22 services, instruction, or the rental of equipment to a
23 participant, whether or not the contract involves agritourism
24 activities or farm animal activities on or off the location or
25 at the site of the activity, must contain in clearly readable

1 print the warning notice specified in subsection (b) of this
2 Section.

3 (b) The signs and contracts described in subsection (a) of
4 this Section must contain the following notice of warning:

5 "WARNING
6 Under Illinois law, each participant who engages in an
7 agritourism or farm animal activity expressly assumes the risks
8 of engaging in and the legal responsibility for injury, loss,
9 or damage to participant, person, or property resulting from
10 the risk of agritourism or farm animal activity."

11 (c) Failure to comply with the requirements concerning
12 warnings signs and notices provided in this subsection will
13 prevent an agritourism and farm animal professional from
14 invoking the liability limitations provided by this Act.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.